

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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| In the Matter of |) | |
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| Amarillo License, L.P. |) | CC Docket No. 94-102 |
| High Plains Wireless, L.P. |) | |
| |) | |
| Petition for Extension of Time or Waiver of |) | |
| Section 20.18(c) of the Rules |) | |

REPLY OF AMARILLO LICENSE, L.P. AND HIGH PLAINS WIRELESS, L.P.

Amarillo License, L.P. (“Amarillo”) and High Plains Wireless, L.P. (“High Plains”), by their attorneys and pursuant to Public Notice DA 02-916,¹ hereby submit their reply comments to the “Joint Comments of Telecommunications for the Deaf, Inc. and the National Association of the Deaf” filed on May 9, 2002.

Amarillo and High Plains are affiliated small carriers. Amarillo provides cellular service to the Amarillo Metropolitan Statistical Area (“MSA”), and High Plains provides PCS service to the Amarillo Basic Trading Area (“BTA”). As small, independent carriers, they face tremendous challenges to remain competitive and economically viable in a highly competitive industry dominated by large nationwide and regional carriers.

Notwithstanding their small size, Amarillo and High Plains take pride in their contribution to the community they serve. They take seriously their civic obligations, including the need for the hearing impaired to have access to telecommunications services. For many

¹ *Wireless Telecommunications Bureau Seeks Comment on Request for Temporary Waiver of Deadline by which Digital Wireless Systems must be Capable of Transmitting 911 Calls from TTY Devices*, Public Notice DA 02-916, CC Docket No. 94-102, released April 19, 2002.

years, Amarillo has been providing analog cellular service to TTY users, and Amarillo and High Plains have enthusiastically endorsed the Commission's TRS program. Because Amarillo offers analog subscribers the same rate plans as are offered to digital subscribers, TTY analog subscribers are paying no more than digital voice subscribers with comparable call volume needs.

However, the complexities of remaining economically viable and competitive in an industry dominated by the large nationwide and regional carriers make compliance with the Section 20.18(c) of the rules difficult. Several years back, at great expense, Amarillo replaced its old analog-only switch and cell site equipment with its current Lucent equipment which is capable of providing both AMPS (analog) and TDMA (digital) service on the cellular frequencies and TDMA service on the PCS frequencies. Amarillo and High Plains incurred substantial debt to build out High Plains's PCS system and to effectuate the competitively necessary equipment replacement for Amarillo's cellular system.

As small carriers, Amarillo and High Plains made their technology choice based upon the technology choices of the neighboring systems. At the time, AT&T Wireless and Western Wireless were both committed to TDMA technology. As a result, Amarillo and High Plains chose TDMA as the best technology to maximize the capability of Amarillo's and High Plains's subscribers to roam elsewhere and to enhance Amarillo's and High Plains's roaming revenues derived from subscribers of other carriers. However, as a result of the decisions of AT&T Wireless and Western Wireless to migrate off of TDMA, Amarillo and High Plains have very recently concluded that continuing with TDMA technology is likely to be competitively disadvantageous, even though Amarillo and High Plains have not yet paid off the debt associated with their investment in the TDMA switch and cell site equipment. Therefore, to enhance their

ability to remain viable carriers, Amarillo and High Plains will need to incur substantial additional debt to replace their entire infrastructure with either GSM or CDMA switch and cell site equipment.

To make matters worse, as Amarillo and High Plains were finalizing plans with Lucent to retrofit their existing equipment so as to be able to provide digital TTY service, the carriers learned that it will cost more than three quarters of a million dollars to retrofit equipment that they must soon replace. Amarillo and High Plains cannot understand why a series of primarily software upgrades² are so expensive. Perhaps they are faced with a monopoly supplier³ taking advantage of the fact that Amarillo and High Plains are required by the Commission to upgrade to digital TTY capability. That leaves Lucent with the ability to charge exorbitant monopolistic rates to Amarillo and High Plains.

Had the price of the software upgrades to achieve digital TTY capability been reasonable, Amarillo and High Plains would have been pleased to make the purchase and upgrade their switch and cell sites in accordance with the schedule proposed in their April 11, 2002 report and request for waiver. However, when faced with the prospect of being forced to make a complete infrastructure equipment trade-out for competitive survival reasons, thereby incurring substantial debt on top of their already substantial debt, as small carriers Amarillo and High Plains cannot afford to incur an additional three quarters of a million dollar debt for switch and cell site upgrades that will have only temporary usefulness. Therefore, Amarillo and High Plains seek an extension of time to comply with Section 20.18(c) until such time as they have replaced their cell site and switch equipment with either GSM or CDMA equipment.

² One hardware upgrade is necessary to provide digital TTY service.

³ Lucent is the only manufacturer that can upgrade a Lucent switch to provide digital TTY capability.

Section 1.925(b)(3)(ii) of the Commission's rules calls for waiver when "application of the rule(s) would be . . . unduly burdensome. . . ." In this case the expenditure of a large sum of money and the taking on of substantial additional debt for an interim solution is unduly burdensome. At a time when many telecommunications companies are declaring bankruptcy, there is no public interest benefit in forcing carriers to spend money to pay for short term solutions provided by monopolistic equipment manufacturers at monopoly prices. There is a tremendous public interest benefit, however, in permitting carriers to control their expenses so that they can remain in business and continue to offer competitive service to their customers.

Grant of a waiver to Amarillo and High Plains would serve the underlying purpose of Section 20.18(c), which is to assure that TTY users have access to telecommunications services at reasonable prices. TTY users will continue to have access to Amarillo's analog cellular service at the same rates as those available to digital voice subscribers. Moreover, the local PSAP is not yet ready to receive digital TTY E911 calls, so there is no immediate need for digital TTY E911 service in Amarillo. In the long run, TTY users will be able to obtain digital TTY service from Amarillo and High Plains, because when Amarillo and High Plains replace their switch with a GSM or CDMA switch, it will come with TTY capability. Amarillo and High Plains will be able to negotiate a package price to include TTY capability, because at the time when they replace their switch and cell sites, they will be able to take competitive bids and will not be faced with an equipment supplier that knows that it has a monopoly on upgrades to an existing switch and cell sites. Lastly, the public interest will be served because Amarillo and High Plains will be able to control their costs, thereby enhancing their capability to stay in business in a highly competitive market. The Telecommunications for the Deaf, Inc. and the National Association of the Deaf and the hearing-impaired people who they represent will in the

long run receive a greater benefit if small carriers such as Amarillo and High Plains can stay in business and offer competitive services, including TTY services.

Conclusion

For the reasons discussed herein, Amarillo License, L.P. and High Plains Wireless, L.P. respectfully request that the Commission grant them a waiver of Section 20.18(c) of the Commission's Rules to permit them to delay the initiation of digital TTY service until after they have replaced their current TDMA/AMPS cell site and switch equipment with either GSM or CDMA equipment.

Respectfully submitted,

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